

MINUTES – BOARD OF ASSESSORS MEETING, 5/7/05

In attendance: **Board of Assessors:** Denis O'Regan, Chair; Walt Borders, Brooke Bovard, Jane Frantz, Tom Frantz, Larry Walker.
Public: Marcia Jones, Charlie Robinson, Nanette Robinson.
Absent: **Board of Assessors:** Laura Wallace.

Denis O'Regan called the meeting to order at 3:15 p.m.

Minutes: The meeting began with the second public hearing of the 2005 Board of Assessors. Denis O'Regan started the hearing by asking the members of the public if they had any issues they would like to address or questions they would like to ask

Nanette Robinson said she has serious concerns regarding the deductibility of Arden land rent from federal income tax. According to information provided in IRS tax filing instructions and other publications, Arden land rent is not deductible from our federal income taxes. Property and school taxes may be deductible, but it is questionable. Nanette mentioned these concerns to Larry Walker after the last Board of Assessors meeting. That apparently prompted a phone call to Nanette from Trustee Aaron Hamburger, who was very upset about this matter, although she has heard nothing from Aaron since. Nanette sees the issue as what we are paying our land rent to fund. It appears that 44% of our land rent goes to pay taxes on improvements only. Nanette says there is a widespread rumor that land rent is totally deductible, but the IRS seems to say it is not.

Charlie Robinson said that if you go into the IRS regulations, you can only deduct taxes on land you own. According to Charlie, 90% of residents are apparently taking the deduction anyway.

Nanette says she needs more assurance that this is legal. In her phone conversation with Aaron, it became clear he had misread IRS Publication 17. The sections he thought applied, dealing with local taxes, actually refers to local income taxes only.

Brooke Bovard asked Nanette what the 44% refers to. Nanette said the whole town pays 44% of its land rent in improvements taxes. She also said that lots of arguments and misstatements were made during the land rent

debate last year. Two-thirds of Arden land rent goes to paying outside taxes, and two-thirds of the outside taxes go to pay improvements taxes only. She said the cheapest assessed value in Arden is \$50. Other leaseholds have multiple improvements. We can't figure out what we're paying our land rent for; this is not the same as paying the full rental value of the land as per the Charter.

Denis O'Regan asked how this impacts us, as the Board of Assessors. He wanted to know if anyone in town had been audited. Denis said it could be that the minute one person in Arden got audited, and this problem didn't get caught, the ball was rolling. He wanted to know how this issue affects the Board. Do some leaseholders have more at risk? How are home-based business owners affected?

Charlie said it would be clearer, easier and neater for everyone to pay their own property and school taxes. Then the taxes Arden assesses would be for such things as land, the Avery mortgage, roads. You would know as a leaseholder what you are paying.

Brooke said that Georgist theory comes and goes on this point - how much of improvements to include or not. She feels the real day of reckoning may be when the County does a property value reassessment. Tom Frantz said the County is limited to a maximum 11% increase on any reassessment.

Nanette said that she needs more than just the Trustees' word on this tax deductibility issue and would prefer to get it in writing.

Charlie wanted to know if the Board of Assessors has looked at the potential rise in school taxes should the May capital referendum pass. Tom said the increase was submitted in the three-year budget; if the referendum passes, it will mean a substantial increase in land rent. Charlie wanted to know if the Board will make a public statement for or against the referendum. **Brooke** said that in Arden no one ever speaks against a school tax because there are too many teachers living here. Larry pointed out that the quality of the school district is the main support of property values. **Brooke** asked if the Board could look into seceding to the Garnet Valley district. Nanette pointed out that whenever spending of any kind goes up, her land rent goes up disproportionately. **Brooke** said that anytime someone turns "senior," our land rent goes up, too. Nanette pointed out that is because here, in Arden, we artificially inflate the land rent bills to cover those rebates.

Charlie requested that the minutes of this meeting include the fact that he had his first grandchild on Monday, May 2nd. The Board extended its congratulations to Charlie, and Jane Frantz said the minutes will certainly include this important fact!

On the issue of making a public statement, Larry Walker said it is not our role as Assessors to make a statement. We determine the land rent rate only; we don't lobby. Our role is limited to individual statements. Denis concurred that we should not make a statement as a Board. Charlie felt it would be appropriate to make a statement about how the increase will affect leaseholders in Arden.

Tom said that, from a budgetary point of view, community spending is presently flat, although Trustees' spending and the prudent reserve have gone up. Larry said that when the prudent reserve is larger, you can spread out the increase over a number of years.

Brooke said that we could separate out the improvements from land rent if we just didn't collect the improvements taxes.

Charlie pointed out that if we pay our own improvements taxes we wouldn't pay factors on them as we do now when they are included as part of our land rent. For some leaseholders this is a significant amount of money.

Brooke questioned whether the Board of Assessors can make this decision or whether it should go to another group like the Trustees.

Nanette said this Board started out the year just figuring out what is going on in Arden, how things are done. All she wants to do is continue that discussion; she feels it is important to keep that kind of discussion going. Tom said part of the reason we need legal advice is to find out what we actually can do as a Board. There is a "disconnect" between the Trustees and the Board of Assessors. We can define full rental value however we want. It is the prerogative of the Trustees to establish how they bill us and what arrangement they've made with the County. He wondered just what would happen if we did pay our own property and school tax bills. Charlie thought we could come up with a formula that accommodates the arrangement the Board wants to have; it is easy to figure out what our County and school taxes are.

Denis said that whether this is an issue for the Board, and he thinks it is, any consensus will have to come from the Board, and the will of the community is most important. The year it comes to a head will be when the Board of Assessors says, "Full Rental Value = Arden Expenses, Only." But, we need to reach community consensus first.

Larry pointed out that the Deed of Trust states that the Trustees have authority to collect "all State and local taxes." Jane pointed out that the Trust does not currently collect all State and local taxes. There are residents who use their leaseholds for business purposes, and the Trust does not collect the business taxes owed to the State and County, and, consequently, those taxes are not included in our land rent. Some residents also owe income taxes to the State and other localities where they work; the Trust does not collect those taxes either. Nor does the Trust collect workmen's compensation and other taxes. The only State and local taxes the Trust collects from Arden leaseholders are those on the residential use of their leaseholds, which is a fairly selective interpretation of "all State and local taxes." Tom pointed out that we currently have four rates, and one of them is assessed only on the Arden Sub Shop. We don't have a definition that applies to home businesses.

Denis said we have to decide what is relevant now, a way to move from past practice to what we need now. At some point the Trustees made an agreement with the County. Does the County have a written agreement with the Trustees to send them the property and school tax bills directly?

Walt Borders asked whether, as the Arden "tax board," we can go to the County and say the bills should go to individual homeowners. **Brooke** was concerned that such an action might result in a complete breakdown between the Village and the Trust. She thought that if we say the bills for improvements are to be paid by individuals, what if the Trustees retaliate by refusing to pay the taxes on the land?

Tom said the fundamental issue is the inclusion of the improvements in land rent. The result is that some leaseholders pay more than their fair share of land rent, and others don't pay enough. Larry said there is inherent unfairness everywhere. Tom agreed there is inherent unfairness, but the County taxes are in a different class; it's a question of proportionality. It is not fair for someone not to pay his private property taxes, but community

services, for example, are not on that scale. Denis said that we live in a community and certain inefficiencies have to exist for the community good, but there are some burdens that exceed inefficiency. Nanette said this is a matter of private good versus public good. Some taxes are just accepted, but these improvements taxes are taxes being paid by her on someone else's private goods. **Brooke** disagreed, saying her increase in land value has done her no good. She pays for a community standard of living she didn't select. The Arden budget reflects a lifestyle the majority of residents has chosen.

Charlie said that during last year's land rent debate, some people made the argument they were paying for improvements on other people's land. They are. If the improvements were removed, it would also solve the "Mc-Mansioning" problem so many complain about - at least to the extent that that homeowner would pay his own taxes.

There were no further comments from the public, so Denis thanked the members of the public for coming and concluded the public hearing portion of the meeting.

The regular Board of Assessors meeting began at 4:10 p.m.

Denis said that he was not able to get the "official" spreadsheets from the Trustees, so there was no electronic copy available. He said we are not ready to "crunch numbers" at this point anyway.

On the Green Book, Denis asked for comments regarding amending the Arden Charter. Larry said this should be handled by ordinance because it is a procedural issue. He did not feel that amending the Act is necessary and voted no on the question. Denis said he weighed both sides of the issue. Going with amending the Act is justified in that our oath comes from the Act; the Act already requires record keeping; there is no way to guarantee the Green Book will be kept otherwise. On the other hand, he wondered if an all-volunteer Board can bear the burden of keeping records in a certain way. **Brooke** said that it is the information we want passed forward, not the form. Tom said the Act requires a full and accurate record. It hasn't been followed. He wondered if making a change to the Act will accomplish what the Act intends. At this point, Denis decided to take a straw poll of members on the question of amending the Act.

Tom said he doesn't know how he would vote; he's still thinking about it, but would be inclined to include this as part of a larger package of items requiring amendments of the Act.

Larry said that an ordinance is sufficient; no need to amend the Act.

Brook voted no on amending the Act. She thought such a change would be unenforceable and that our creating the Green Book and passing it along is enough.

Walt voted yes to changing the Act. He asked how we could make an ordinance work. He thought the weight of authority carried by a change to the Act would be more effective.

Denis said the requirements for keeping records are already there in the Act, but there is still less than desirable recordkeeping.

Jane chose to recuse herself from the vote on the basis that she had created the Green Book and, therefore, had a conflict of interest.

The next agenda item was the prudent reserve. Denis asked for a discussion of what it is, what should be a part of it and what it has been used for in the past.

Larry reported that Ardentown collects 100% of the annual County and school taxes as its prudent reserve; Ardencroft does the same.

Brooke asked if we would be in a position as a Board to say we should make a recommendation to increase the prudent reserve over ten years to bring Arden in line with Ardentown and Ardencroft.

Larry suggested that the Board ask the Trustees to provide an opinion from their legal counsel about what happens if a budget referendum doesn't pass, how much of a prudent reserve do the Trustees need?

Denis asked if it is the charge of this Board to go to the Trustees' lawyer to get an opinion. Tom said this gets back to the basic issue of holding money to pay private property taxes. Also, it is entirely the Board's decision whether to even have a prudent reserve. In either case we need to be

completely upfront about what we're doing. Tom feels that the proper use of a prudent reserve should be as a rainy day fund to be used for emergencies.

Larry made a motion as follows: The Board of Assessors asks for a written opinion from the Trustees' lawyer about what happens in the event an Assessors' Report and an Alternative Assessment both fail at referendum in order to help the Board determine the proper level of prudent reserve. This is an important issue; you Knuckleheads ought to do something about it.

The vote on the motion tied: **Brooke**, Walt and Larry voted yes; Denis, Tom and Jane voted no. The motion failed.

On the Assessors' website, Walt reported that he has not heard back yet on the idea of an Assessors blog or on getting visitation logs. He will keep us posted.

The next agenda item was the Assessors Report to the June Town Assembly and what recommendations we will be making:

Brooke suggested establishing an "E Rate" to cover home businesses.

Jane mentioned the idea of staggering the terms of Assessors. A straw vote on this idea showed 5 voting yes, 1 voting no. Tom said this would also require extending the length of the Assessors' terms.

Denis suggested asking for position statements from every person running for the Board of Assessors.

Brooke mentioned including the idea of separating land and improvements taxes.

Tom mentioned giving the Board of Assessors a viable budget and making recommendations on how it should be spent.

Denis asked all Board members to give some thought to this issue because we will have to begin drafting our report at the next meeting, or soon thereafter.

Action items for May 23rd Board meeting:

1. Tom/Denis will get spreadsheets and projector for our next meeting so we can start crunching numbers.
2. Tom will ask Aaron for projected revenue income for the Trust for next year and see if Aaron can clarify the numbers he provided earlier on the prudent reserve.
3. Everyone to bring proposed recommendations for the June report.
4. Tom will write an article for the June Arden Page discussing the Board's proposed recommendations.
5. **Brooke** will bring copies of the 1980 Board of Assessors minutes to the next meeting.

Our next regular Board meeting is on Monday, May 23rd at 7:30 p.m. This meeting adjourned at 5:15 p.m.

Respectfully submitted,

Jane Frantz
Secretary, Board of Assessors